

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

|                        |   |                       |
|------------------------|---|-----------------------|
| KENNETH COLE,          | ) |                       |
| BRIGITTE BROWN,        | ) |                       |
|                        | ) |                       |
| Plaintiffs,            | ) |                       |
|                        | ) |                       |
| v.                     | ) | C.A. No. 05-270 (GMS) |
|                        | ) |                       |
| DELAWARE TECHNICAL AND | ) |                       |
| COMMUNITY COLLEGE,     | ) |                       |
|                        | ) |                       |
| Defendant.             | ) |                       |

**DELAWARE TECHNICAL AND COMMUNITY COLLEGE'S PROPOSED  
SPECIAL INTERROGATORIES**

Delaware Technical and Community College (the "College") requests that the following Special Verdict questions be submitted to the Jury:

**OFFICE RELOCATION**

1. Do you find that Plaintiffs have met their burden of proving by a preponderance of the evidence that the office relocation was an adverse employment action?

Yes \_\_\_\_\_

No \_\_\_\_\_

**[If your answer is yes, answer question 2.]**

**[If you answer is no, you may skip to 4.]**

2. Do you find that the College had a valid non-discriminatory business reason for the office relocation?

Yes \_\_\_\_\_

No \_\_\_\_\_

**[If your answer is yes, you may skip to question 4.]**

**[If your answer is no, answer question 3.]**

3. Do you find that Plaintiffs proved by a preponderance of the evidence that the College intentionally discriminated against the Plaintiffs on the basis of race in relocating their office?

Yes \_\_\_\_\_

No \_\_\_\_\_

**SPECIAL PROGRAMS DIRECTOR POSITION**

4. Do you find that Plaintiff Cole proved by a preponderance of the evidence he was qualified for the Special Programs Director position?

Yes \_\_\_\_\_

No \_\_\_\_\_

[If your answer is yes, answer question 5.]

[If your answer is no, you may skip to question 10.]

5. Do you find that Plaintiff Cole proved by a preponderance of the evidence he could work the hours required of the Special Programs Director position?

Yes \_\_\_\_\_

No \_\_\_\_\_

[If your answer is yes, answer question 6.]

[If your answer is no, you may skip to question 10.]

6. Do you find the decision to promote or reclassify Paul Morris as the Special Programs Director was in any way related to Plaintiff Kenneth Cole?

Yes \_\_\_\_\_

No \_\_\_\_\_

[If your answer is yes, answer question 7.]

[If your answer is no, you may skip to question 10.]

7. Do you find that Plaintiff Cole proved by a preponderance of the evidence the College could have known he was interested in the Special Programs Director position?

Yes \_\_\_\_\_

No \_\_\_\_\_

**[If your answer is yes, answer question 8.]**

**[If your answer is no, you may skip to question 10.]**

8. Do you find that the College had a valid non-discriminatory reason to assign the Special Programs Director position to Paul Morris?

Yes \_\_\_\_\_

No \_\_\_\_\_

**[If your answer is no, you may skip to question 9.]**

**[If your answer is yes, answer question 10.]**

9. Do you find the decision to promote or reclassify Morris to Special Programs Director was an act of intentional racial discrimination against Plaintiff Cole?

Yes \_\_\_\_\_

No \_\_\_\_\_

#### **OPPOSITION TO OFFICE RELOCATION**

10. Do you find that Plaintiffs proved by a preponderance of the evidence that the complaints the office relocation was “unfair” were such that those complaints could be fairly said to amount to an implicit assertion of racial discrimination?

Yes \_\_\_\_\_

No \_\_\_\_\_

**[If the answer is yes, answer question 11.]**

**[If your answer is no, you may skip to question 12.]**

11. Do you find that the Plaintiff Cole proved by a preponderance of the evidence the College retaliated against him in deciding to promote or reclassify Morris to Special Programs Director.

Yes \_\_\_\_\_

No \_\_\_\_\_

**CHANGING PLAINTIFF COLE'S WORK HOURS**

12. Do you find that Plaintiff Cole proved by a preponderance of the evidence that changing his work hours was an adverse employment action?

Yes \_\_\_\_\_

No \_\_\_\_\_

**[If your answer is yes, answer question 13.]**

**[If your answer is no, you may skip to question 16.]**

13. Do you find that the College had a valid, non-discriminatory reason to request that Plaintiff Cole work within the business hours required of College employees?

Yes \_\_\_\_\_

No \_\_\_\_\_

**[If your answer is yes, you may skip to question 16.]**

**[If your answer is no, answer question 14.]**

14. Do you find that the Plaintiff Cole proved by a preponderance of the evidence the College intentionally discriminated against him on the basis of race by changing his working hours?

Yes \_\_\_\_\_

No \_\_\_\_\_

15. Do you find that Plaintiff Cole proved by a preponderance of the evidence the College retaliated against him by changing his working hours?

Yes \_\_\_\_\_

No \_\_\_\_\_

**ASKING PLAINTIFF COLE TO DOCUMENT HIS ILLNESS**

16. Do you find that Plaintiff Cole proved by a preponderance of the evidence that requesting him to document his illness was adverse employment action?

Yes \_\_\_\_\_

No \_\_\_\_\_

**[If your answer is yes, answer question 17.]**

**[If your answer is no, you may skip to question 20.]**

17. Do you find the College had a valid non-discriminatory business reason for requesting that Plaintiff Cole document his reduced working hours due to illness?

Yes \_\_\_\_\_

No \_\_\_\_\_

**[If your answer is yes, you may skip to question 20.]**

**[If your answer is no, answer question 18.]**

18. Do you find that Plaintiff Cole proved by a preponderance of the evidence the College intentionally discriminated against him on basis of race by asking him to document his reduced working hours due to his illness?

Yes \_\_\_\_\_

No \_\_\_\_\_

19. Do you find that Plaintiff Cole proved by a preponderance of the evidence that the College retaliated against him by asking him to document his reduced working hours due to his illness?

Yes \_\_\_\_\_

No \_\_\_\_\_

#### **REQUIRING THE PLAINTIFFS TO SECURE APPROVAL OF TRAVEL REQUESTS**

20. Do you find that Plaintiffs proved by a preponderance of the evidence they suffered an adverse employment action when the manner in which their travel requests were approved was changed?

Yes \_\_\_\_\_

No \_\_\_\_\_

**[If your answer is yes, answer question 21.]**

**[If your answer is no, you may skip to question 24.]**

21. Do you find the College had a valid non-discriminatory reason to require travel requests to be approved in advance?

Yes \_\_\_\_\_

No \_\_\_\_\_

**[If your answer is yes, you may skip to question 24.]**

**[If your answer is no, answer question 22.]**

22. Do you find that Plaintiffs proved by a preponderance of the evidence the College intentionally discriminated against Plaintiffs on the basis of race by changing the way in which travel requests were approved?

Yes \_\_\_\_\_

No \_\_\_\_\_

23. Do you find that Plaintiffs proved by a preponderance of the evidence the change to the way in which travel requests were approved was an act of retaliation against them?

Yes \_\_\_\_\_

No \_\_\_\_\_

#### **ASSIGNMENT OF THE UBMS SUPERVISOR**

24. Do you find that Plaintiff Brown proved by a preponderance of the evidence she was qualified for the Program Manager position?

Yes \_\_\_\_\_

No \_\_\_\_\_

**[If your answer is yes, answer question 25.]**

**[If your answer is no, you may skip to question 29.]**

25. Do you find the College had a valid, non-discriminatory reason to name Andrea Coleman the UBMS Program Manager?

Yes \_\_\_\_\_

No \_\_\_\_\_

**[If your answer is yes, you may skip to question 29.]**

**[If your answer is no, answer question 26.]**

26. Do you find that Plaintiff Brown proved by a preponderance of the evidence the College intentionally discriminated against Brown on the basis of race when Andrea Coleman was hired to be the Program Manager for the Upward Bound Math Science Department?

Yes \_\_\_\_\_

No \_\_\_\_\_

27. Do you find that Plaintiff Brown proved by a preponderance of the evidence that the College intentionally discriminated against her on the basis of race when she was not asked to become the acting Program Manager when Rosetta Henderson's position became vacant?

Yes. \_\_\_\_\_

No \_\_\_\_\_

28. Do you find that Plaintiff Brown proved by a preponderance of the evidence the College retaliated against her for protected activity when it named Andrea Coleman the UBMS Program Manager?

Yes \_\_\_\_\_

No \_\_\_\_\_

#### **DAMAGES**

29. Do you find that Plaintiff Brown failed to prove she mitigated her prospective earnings damages by looking for work after leaving the College?

Yes \_\_\_\_\_

No \_\_\_\_\_

30. If you find that Plaintiff Brown proved by a preponderance of the evidence that the College discriminated against her on the basis of race, how much in compensatory damages do you award to Plaintiff Brown (remember to deduct any amounts which Brown has earned or could have earned with reasonable diligence at the time of her resignation from the College)?

\$\_\_\_\_\_

31. If you find that Plaintiff Cole proved by a preponderance of the evidence that the College discriminated against him on the basis of race, how much in compensatory damages do you award to Plaintiff Cole?

\$\_\_\_\_\_

32. If you find that Plaintiff Brown proved by a preponderance of the evidence that the College retaliated against her, how much in compensatory damages do you award to Plaintiff Brown (remember to deduct any amounts which Brown has earned or could have earned with reasonable diligence at the time of her resignation from the College)?

\$ \_\_\_\_\_

33. If you find that Plaintiff Cole proved by a preponderance of the evidence that the College retaliated against him, how much in compensatory damages do you award to Plaintiff Cole?

\$ \_\_\_\_\_

34. Do you find Plaintiff Kenneth Cole is entitled to punitive damages?

YES \_\_\_\_\_ NO \_\_\_\_\_

35. If your answer to the previous question was Yes, how much in punitive damages do you award to Plaintiff Cole?

\$ \_\_\_\_\_

36. Do you find Plaintiff Brigitte Brown is entitled to punitive damages?

YES \_\_\_\_\_ NO \_\_\_\_\_

37. If your answer to the previous question was Yes, how much in punitive damages do you award to Plaintiff Brown?

\$ \_\_\_\_\_